

AMENDED IN SENATE JANUARY 6, 2014

AMENDED IN SENATE MAY 21, 2013

AMENDED IN SENATE APRIL 15, 2013

SENATE BILL

No. 673

Introduced by Senator DeSaulnier

February 22, 2013

An act to ~~add Section 65957.6 to amend Sections 31468, 31529.9, 31557.3, and 31580.2 of, and to add Section 31522.9 to, the Government Code, relating to land use; county employees' retirement.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 673, as amended, DeSaulnier. ~~Land use; development project review. County employees' retirement: Contra Costa County.~~

The County Employees Retirement Law of 1937 authorizes counties and districts to establish retirement systems pursuant to its provisions in order to provide pension benefits to their employees. The law defines a district for these purposes and includes specified county retirement systems within that definition. The law generally provides that the personnel of a county retirement system are county employees, but also authorizes the board of retirement in specified counties to appoint certain personnel who are designated employees of the retirement system.

This bill would make the Contra Costa County retirement system for purposes of the County Employees Retirement Law of 1937. The bill would authorize the board of retirement to appoint a retirement administrator and other personnel as required to accomplish the necessary work of the board and would authorize the administrator to make appointments on its behalf. The bill would provide that these

employees are employees of the retirement system, not the county, and would except them from civil service provisions and merit system rules that would otherwise apply. The bill would make the retirement board a public agency for purposes of collective bargaining and provide that the compensation of the personnel so employed by the board is an expense of the system.

The bill would require the retirement system to retain, for a 90-day transition period, nonprobationary county employees employed at the retirement system's facilities who were covered by a memorandum of understanding, as specified. The bill would provide that, during the 90-day transition period, probationary employees would maintain only those rights they had pursuant to their employment with the county. The bill would require the retirement system to recognize as the exclusive representative of the former county employees who are retained, as specified, those recognized employee organizations that represented the employees when they were employed by the county, and would require that the initial terms and conditions for those employees be as previously established. The bill would make technical and conforming changes in relation to these provisions.

~~The Permit Streamlining Act requires the lead agency that has the principal responsibility for approving a development project, as defined, to approve or disapprove the project within 60 days from the date of adoption of a negative declaration or the determination by the lead agency that the project is exempt from the California Environmental Quality Act, unless the project proponent requests an extension of time.~~

~~This bill additionally would require a city, county, or city and county, including a charter city or charter city and county, prior to approving or disapproving a proposed development project that would permit the construction of a retail or other commercial facility project, as specified, to cause a cost benefit analysis to be prepared, as specified, which would be paid for by the project applicant. This bill would provide that the cost-benefit analysis would include specified assessments and projections including, among other things, an assessment of the effect that the construction and operation of the proposed development will have on the ability of the city, county, or city and county to implement the goals contained in its general plan.~~

~~This bill would specify that it would not be construed to create a private right of action in any civil litigation.~~

~~By increasing duties of local officials, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.

State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 31468 of the Government Code is
2 amended to read:

3 31468. (a) “District” means a district, formed under the laws
4 of the state, located wholly or partially within the county other
5 than a school district.

6 (b) “District” also includes any institution operated by two or
7 more counties, in one of which there has been adopted an ordinance
8 placing this chapter in operation.

9 (c) “District” also includes any organization or association
10 authorized by Chapter 26 of the Statutes of 1935, as amended by
11 Chapter 30 of the Statutes of 1941, or by Section 50024, which
12 organization or association is maintained and supported entirely
13 from funds derived from counties, and the board of any retirement
14 system is authorized to receive the officers and employees of that
15 organization or association into the retirement system managed
16 by the board.

17 (d) “District” also includes, but is not limited to, any sanitary
18 district formed under Part 1 (commencing with Section 6400) of
19 Division 6 of the Health and Safety Code.

20 (e) “District” also includes any city, public authority, public
21 agency, and any other political subdivision or public corporation
22 formed or created under the constitution or laws of this state and
23 located or having jurisdiction wholly or partially within the county.

24 (f) “District” also includes any nonprofit corporation or
25 association conducting an agricultural fair for the county pursuant
26 to a contract between the corporation or association and the board
27 of supervisors under the authority of Section 25905.

28 (g) “District” also includes the Regents of the University of
29 California, but with respect only to employees who were employees
30 of a county in a county hospital, who became university employees

1 pursuant to an agreement for transfer to the regents of a county
2 hospital or of the obligation to provide professional medical
3 services at a county hospital, and who under that agreement had
4 the right and did elect to continue membership in the county's
5 retirement system established under this chapter.

6 (h) "District" also includes the South Coast Air Quality
7 Management District, a new public agency created on February
8 1, 1977, pursuant to Chapter 5.5 (commencing with Section 40400)
9 of Part 3 of Division 26 of the Health and Safety Code.

10 (1) Employees of the South Coast Air Quality Management
11 District shall be deemed to be employees of a new public agency
12 occupying new positions on February 1, 1977. On that date, those
13 new positions are deemed not to have been covered by any
14 retirement system.

15 (2) No retirement system coverage may be effected for an
16 employee of the South Coast Air Quality Management District
17 who commenced employment with the district during the period
18 commencing on February 1, 1977, and ending on December 31,
19 1978, unless and until the employee shall have elected whether to
20 become a member of the retirement association established in
21 accordance with this chapter for employees of Los Angeles County
22 or the retirement association established in accordance with this
23 chapter for employees of San Bernardino County. The election
24 shall occur before January 1, 1980. Any employee who fails to
25 make the election provided for herein shall be deemed to have
26 elected to become a member of the retirement association
27 established in accordance with this chapter for the County of Los
28 Angeles.

29 (3) The South Coast Air Quality Management District shall
30 make application to the retirement associations established in
31 accordance with this chapter for employees of Los Angeles County
32 and San Bernardino County for coverage of employees of the South
33 Coast Air Quality Management District.

34 (4) An employee of the South Coast Air Quality Management
35 District who commenced employment with the district during the
36 period commencing on February 1, 1977, and ending on December
37 31, 1978, and who has not terminated employment before January
38 1, 1980, shall be covered by the retirement association elected by
39 the employee pursuant to paragraph (2). That coverage shall be

1 effected no later than the first day of the first month following the
2 date of the election provided for in paragraph (2).

3 (5) Each electing employee shall receive credit for all service
4 with the South Coast Air Quality Management District. However,
5 the elected retirement association may require, as a prerequisite
6 to granting that credit, the payment of an appropriate sum of money
7 or the transfer of funds from another retirement association in an
8 amount determined by an enrolled actuary and approved by the
9 elected retirement association's board. The amount to be paid shall
10 include all administrative and actuarial costs of making that
11 determination. The amount to be paid shall be shared by the South
12 Coast Air Quality Management District and the employee. The
13 share to be paid by the employee shall be determined by good faith
14 bargaining between the district and the recognized employee
15 organization, but in no event shall the employee be required to
16 contribute more than 25 percent of the total amount required to be
17 paid. The elected retirement association's board may not grant that
18 credit for that prior service unless the request for that credit is
19 made to, and the required payment deposited with, the elected
20 retirement association's board no earlier than January 1, 1980, and
21 no later than June 30, 1980. The foregoing shall have no effect on
22 any employee's rights to reciprocal benefits under Article 15
23 (commencing with Section 31830).

24 (6) An employee of the South Coast Air Quality Management
25 District who commenced employment with the district after
26 December 31, 1978, shall be covered by the retirement association
27 established in accordance with this chapter for employees of San
28 Bernardino County. That coverage shall be effected as of the first
29 day of the first month following the employee's commencement
30 date.

31 (7) Notwithstanding paragraphs (2) and (4) above, employees
32 of the South Coast Air Quality Management District who were
33 employed between February 1, 1977, and December 31, 1978, and
34 who terminate their employment between February 1, 1977, and
35 January 1, 1980, shall be deemed to be members of the retirement
36 association established in accordance with this chapter for the
37 employees of Los Angeles County commencing on the date of
38 their employment with the South Coast Air Quality Management
39 District.

(i) “District” also includes any nonprofit corporation that operates one or more museums within a county of the 15th class, as described by Sections 28020 and 28036 of the Government Code, as amended by Chapter 1204 of the Statutes of 1971, pursuant to a contract between the corporation and the board of supervisors of the county, and that has entered into an agreement with the board and the county setting forth the terms and conditions of the corporation’s inclusion in the county’s retirement system.

(j) “District” also includes any economic development association funded in whole or in part by a county of the 15th class, as described by Sections 28020 and 28036 of the Government Code, as amended by Chapter 1204 of the Statutes of 1971, and that has entered into an agreement with the board of supervisors and the county setting forth the terms and conditions of the association’s inclusion in the county’s retirement system.

(k) “District” also includes any special commission established in the Counties of Tulare and San Joaquin as described by Section 14087.31 of the Welfare and Institutions Code, pursuant to a contract between the special commission and the county setting forth the terms and conditions of the special commission’s inclusion in the county’s retirement system with the approval of the board of supervisors and the board of retirement.

(l) (1) “District” also includes the retirement system established under this chapter in Orange County.

(2) “District” also includes the retirement system established under this chapter in San Bernardino County at such time as the board of retirement, by resolution, makes this section applicable in that county.

(3) “District” also includes the retirement system established under this chapter in Contra Costa County.

SEC. 2. Section 31522.9 is added to the Government Code, to read:

31522.9. (a) The board of retirement of a county may appoint a retirement administrator and other personnel as are required to accomplish the necessary work of the board. The board may authorize the administrator to make these appointments on its behalf. Notwithstanding any other law, the personnel so appointed shall not be county employees but shall become employees of the retirement system, subject to terms and conditions of employment established by the board of retirement, including those set forth

1 *in memoranda of understanding executed by the board of*
2 *retirement and recognized employee organizations.*

3 *(b) Sections 31522.1 and 31522.2 shall not apply to a retirement*
4 *system that appoints personnel pursuant to this section.*

5 *(c) The retirement system that appoints personnel pursuant to*
6 *this section is a public agency for purposes of the*
7 *Meyers-Milias-Brown Act (Chapter 10 (commencing with Section*
8 *3500) of Division 4).*

9 *(d) The compensation of personnel appointed pursuant to this*
10 *section shall be an expense of administration of the retirement*
11 *system, pursuant to Section 31580.2, except as provided in Sections*
12 *31529.5, 31529.9, and 31596.1.*

13 *(e) The board of retirement and the board of supervisors may*
14 *enter into agreements as they determine are necessary and*
15 *appropriate in order to carry out the provisions of this section.*

16 *(f) The retirement system, upon the effective date of this section,*
17 *shall retain, for a 90-day transition employment period,*
18 *nonprobationary employees who, upon the effective date of this*
19 *section, were covered by a county memorandum of understanding*
20 *and employed by the county at the retirement system's facilities,*
21 *unless just cause exists to terminate the employees or legitimate*
22 *grounds exist to lay off these employees. If during the 90-day period*
23 *the retirement system determines that a layoff of these employees*
24 *is necessary, the retirement system shall retain the employees by*
25 *seniority within job classification. The terms and conditions of*
26 *employment of the employees retained pursuant to this subdivision*
27 *shall be subject to the terms and conditions established by the*
28 *applicable memoranda of understanding executed by the board of*
29 *retirement and the recognized employee organizations. During*
30 *the 90-day transition period, probationary employees shall*
31 *maintain only those rights they initially acquired pursuant to their*
32 *employment with the county.*

33 *(g) Subject to the employees' rights under the*
34 *Meyers-Milias-Brown Act (Chapter 10 (commencing with Section*
35 *3500) of Division 4), the retirement system, upon the effective date*
36 *of this section, shall recognize as the exclusive representative of*
37 *the employees retained pursuant to subdivision (f) the recognized*
38 *employee organizations that represented those employees when*
39 *employed by the county. The initial terms and conditions for those*
40 *employees shall be as previously established by the applicable*

1 *memoranda of understanding executed by the county and*
2 *recognized employee organizations.*

3 *(h) This section shall apply only in Contra Costa County.*

4 *SEC. 3. Section 31529.9 of the Government Code is amended*
5 *to read:*

6 31529.9. (a) In addition to the powers granted by Sections
7 31522.5, 31522.9, 31529, 31529.5, 31614, and 31732, the board
8 of retirement and the board of investment may contract with the
9 county counsel or with attorneys in private practice or employ staff
10 attorneys for legal services.

11 (b) Notwithstanding Sections 31522.5, 31522.7, 31529.5, and
12 31580, the board shall pay, from system assets, reasonable
13 compensation for the legal services.

14 (c) This section applies to any county of the 2nd class, 7th class,
15 9th class, 14th class, 15th class, or the 16th class as described by
16 Sections 28020, 28023, 28028, 28030, 28035, 28036, and 28037.

17 (d) This section shall also apply to any other county if the board
18 of retirement, by resolution adopted by majority vote, makes this
19 section applicable in the county.

20 *SEC. 4. Section 31557.3 of the Government Code is amended*
21 *to read:*

22 31557.3. On the date a district, as defined in subdivision (l) of
23 Section 31468, is included in the retirement system, any personnel
24 appointed pursuant to Section 31522.5, 31522.9, and 31529.9 who
25 had previously been in county service shall continue to be members
26 of the system without interruption in service or loss of credit.
27 Thereafter, each person entering employment with the district shall
28 become a member of the system on the first day of the calendar
29 month following his or her entrance into service.

30 *SEC. 5. Section 31580.2 of the Government Code is amended*
31 *to read:*

32 31580.2. (a) In counties in which the board of retirement, or
33 the board of retirement and the board of investment, have appointed
34 personnel pursuant to Section 31522.1, 31522.5, ~~or 31522.7,~~
35 ~~31522.7, or 31522.9,~~ the respective board or boards shall annually
36 adopt a budget covering the entire expense of administration of
37 the retirement system which expense shall be charged against the
38 earnings of the retirement fund. The expense incurred in any year
39 may not exceed the greater of either of the following:

1 (1) Twenty-one hundredths of 1 percent of the accrued actuarial
2 liability of the retirement system.

3 (2) Two million dollars (\$2,000,000), as adjusted annually by
4 the amount of the annual cost-of-living adjustment computed in
5 accordance with Article 16.5 (commencing with Section 31870).

6 (b) Expenditures for computer software, computer hardware,
7 and computer technology consulting services in support of these
8 computer products shall not be considered a cost of administration
9 of the retirement system for purposes of this section.

10 ~~SECTION 1. Section 65957.6 is added to the Government~~
11 ~~Code, to read:~~

12 ~~65957.6. (a) (1) Prior to approving or disapproving a permit~~
13 ~~for the construction of a retail or other commercial facility project~~
14 ~~estimated to receive one million dollars (\$1,000,000) or more in~~
15 ~~subsidies, a city, county, or city and county shall cause to be~~
16 ~~prepared a cost benefit analysis.~~

17 ~~(2) For purposes of this section, “subsidy” means any~~
18 ~~contribution made by the state or local government to a project~~
19 ~~considered to be in the interest of the public, including, but not~~
20 ~~limited to, tax credits, low-interest loans, state or federal grants,~~
21 ~~land donations or acquisitions, or remediation or environmental~~
22 ~~cleanup activity.~~

23 ~~(b) A city, county, or city and county may prepare the cost~~
24 ~~benefit analysis required by this section, or contract for its~~
25 ~~preparation with a private entity, other than the permit applicant,~~
26 ~~or another public agency. The private entity or public agency shall~~
27 ~~be qualified by education, training, and experience to conduct cost~~
28 ~~benefit analyses.~~

29 ~~(c) The applicant for the development project shall pay the city,~~
30 ~~county, or city and county, for the costs of preparing or contracting~~
31 ~~for the cost benefit analysis.~~

32 ~~(d) The cost benefit analysis shall include, but is not limited to,~~
33 ~~all of the following:~~

34 ~~(1) A projection of the costs of public services and public~~
35 ~~facilities resulting from the construction and operation of the~~
36 ~~proposed development and the incidence of those costs.~~

37 ~~(2) A projection of the public revenues resulting from the~~
38 ~~construction and operation of the proposed development and the~~
39 ~~incidence of those revenues.~~

1 ~~(3) The cost of subsidies provided by a city, county, or city and~~
2 ~~county.~~

3 ~~(4) An assessment of the effect that the construction and~~
4 ~~operation of the proposed development will have on the ability of~~
5 ~~the city, county, or city and county to implement the goals~~
6 ~~contained in its general plan, including, but not limited to, local~~
7 ~~policies and standards that apply to land use patterns, traffic~~
8 ~~circulation, affordable housing, natural resources, including water~~
9 ~~supplies, open-space lands, noise problems, and safety risks.~~

10 ~~(5) An assessment of whether the effect of the construction and~~
11 ~~operation of the proposed development will be consistent with the~~
12 ~~general use designation, density, building intensity, and applicable~~
13 ~~policies specified for the project area in either a sustainable~~
14 ~~communities strategy or an alternative planning strategy for which~~
15 ~~the State Air Resources Board, pursuant to Chapter 2.5~~
16 ~~(commencing with Section 65080), has accepted a metropolitan~~
17 ~~planning organization's determination that the sustainable~~
18 ~~communities strategy or alternative planning strategy, if~~
19 ~~implemented, would achieve the greenhouse gas emission reduction~~
20 ~~targets.~~

21 ~~(6) An assessment of whether the development would require~~
22 ~~the demolition of housing or any other action or change that would~~
23 ~~result in a decrease or negative impact on the creation of extremely~~
24 ~~low, very low, low-, or moderate-income housing.~~

25 ~~(7) An assessment of whether the development would result in~~
26 ~~the destruction or demolition of park or other green space,~~
27 ~~playgrounds, child care facilities, or community centers.~~

28 ~~(8) An assessment of whether the development would result in~~
29 ~~any other adverse or positive economic impact or blight.~~

30 ~~(9) An assessment of whether the proposed development would~~
31 ~~adversely impact a state transportation facility, including to what~~
32 ~~extent it would degrade services of that facility.~~

33 ~~(10) An assessment of whether any measures are available that~~
34 ~~may mitigate any materially adverse economic impact identified~~
35 ~~by the applicant.~~

36 ~~(d) (1) The Legislature finds that the construction and operation~~
37 ~~of retail and commercial facilities has land use, environmental,~~
38 ~~economic, fiscal, and social equity effects that extend beyond the~~
39 ~~boundaries of the city, county, or city and county in which it is~~
40 ~~located.~~

1 ~~(2) The Legislature finds that it is essential for the statewide~~
2 ~~public health, safety, and welfare to require cities, counties, and~~
3 ~~cities and counties to understand the potential spillover effects of~~
4 ~~approving the construction and operation of these retail and~~
5 ~~commercial facilities.~~

6 ~~(3) The Legislature further finds and declares that the review~~
7 ~~and regulation of retail and commercial facilities is a matter of~~
8 ~~statewide concern and not merely a municipal affair, as that term~~
9 ~~is used in Section 5 of Article XI of the California Constitution.~~
10 ~~Therefore, this section shall also apply to charter cities and to~~
11 ~~charter cities and counties.~~

12 ~~(e) This section shall not be construed to create a private right~~
13 ~~of action in any civil litigation.~~

14 ~~SEC. 2.—No reimbursement is required by this act pursuant to~~
15 ~~Section 6 of Article XIII B of the California Constitution because~~
16 ~~a local agency or school district has the authority to levy service~~
17 ~~charges, fees, or assessments sufficient to pay for the program or~~
18 ~~level of service mandated by this act, within the meaning of Section~~
19 ~~17556 of the Government Code.~~